

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re: **Barry Alan Hersh,**

Case No. 1-12-46510-cec

Debtor.

Chapter 7

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Barry Alan Hersh,

Plaintiff,

-against-

Adv. Proc. No.

**U.S. Department of Education and
Great Lakes Borrower Services,**

Defendant(s)/Creditor(s)
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COMPLAINT

Barry Alan Hersh, ("Plaintiff"), as plaintiff in this adversary proceeding against the ("Defendants") **U.S. Department of Education and Great Lakes Borrower Services,** hereby files this complaint (the "Complaint") respectfully requesting a hardship discharge pursuant to section 523(a)(8)(B) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code") as follows:

NATURE OF THIS ACTION

1. This is an adversary proceeding to obtain an undue hardship discharge of Plaintiff's student loan debt pursuant to section 523(a)(8) of title 11 of the United States Code (the "Bankruptcy Code"),

JURISDICTION

2. This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334.

3. This adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157 (b)(2) and Rule 7001 (6) of the Federal Rules of Bankruptcy Procedure.

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

PARTIES

5. **Barry Alan Hersh**, ("Plaintiff"), is a resident of the state of New York and a debtor in a Chapter 7 bankruptcy case (the "Chapter 7 Case") before this court [Case No. 1-12-46510-cec],

6. The **DOE** is an executive department of the government of the United States, established pursuant to the Department of Education Organization Act, Pub. L. No. 96-88, 93 Stat. 668 (1979). Rule 7004(b)(4) and (5) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") permits service upon the DOE to be effected by service upon (i) the U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202, (ii) the Attorney General of the United States, 950 Pennsylvania Avenue, NW, Washington, DC, 20530-0001, and (iii) the United States Attorney's Office for the Eastern District of New York, the Civil Process Clerk, 271 Cadman Plaza East, Brooklyn New York 11201.

BACKGROUND

7. **Barry Alan Hersh**, ("Plaintiff"), work experience is as follows:
Mr. Hersh has been unemployed since August 2010, with the exception of two short-term employments (three and two months, respectively, in 2012) as a Para-Transit and Limousine driver. Prior to August 2010, Mr. Hersh was a teacher with the NYC Dept of Education, from 2000 to 2010, and prior had been gainfully employed full-time in other industries.

8. **Barry Alan Hersh**, ("Plaintiff"), educational history is as follows:
-CUNY-Brooklyn College, 2006-2008. Master of Education, Middle School Science (incomplete). 30 credits in Middle School education and science coursework
-SUNY College at Oneonta, 1977-1981. Bachelor of Science (MS) in Business/Economics.

9. **Barry Alan Hersh**, ("Plaintiff"), medical history is as follows:

Mr. Hersh has been diagnosed with depression and anxiety disorder. He is currently under treatment for same, and has been so since 2010. His treatment includes regularly scheduled psychotherapy sessions and the prescription of psychotropic medication(s).

10. Barry Alan Hersh, ("Plaintiff"), current situation is as follows:

Mr. Hersh's mental condition is causing him great pain and anguish, a complete lack of self-esteem and confidence, which in turn has rendered his search for employment unsuccessful.

Mr. Hersh has exhausted all of his savings, including IRA and Teachers Retirement System account(s).

Mr. Hersh has no cash, owns no real estate, and is subsisting due to the generosity of his maternal aunt, with whom he lives.

11. Barry Alan Hersh, ("Plaintiff"), current student loan debt is as follows:

\$44,377.00 as of July 27, 2015, consisting of five (5) PLUS loans originated between 2006 and 2010 in the amount(s) of \$20,000.00, \$5,350.00, \$2,000.00, \$5,350.00 and \$4,500.00. The total origination value of the loans was **\$37,200.00**.

Mr. Hersh began repayment of the loans in January 2007, staying current with payments until October 2010, after losing his teaching position.

CAUSE OF ACTION

12. Barry Alan Hersh, ("Plaintiff"), believes he has pertinent grounds to request relief from the court due to numerous circumstances, which are:

-Mr. Hersh stayed current with payments beginning January 2007 through October 2010, and had full intent to repay the loan(s) in full, until his employment and medical conditions changed radically.

-Mr. Hersh made a good faith effort to continue payments, when able, by applying for and being granted unemployment deferments(s) and forbearance(s).

-The unlikelihood of Mr. Hersh finding gainful employment in the near future, under his current mental and emotional condition(s).

-The further unlikelihood of Mr. Hersh, age 56, of finding employment in any capacity approaching his past endeavors, and earnings potential.

-The overwhelming burden of monthly and long-term payment(s), to satisfy the loan(s), would effectually nullify any potential for Mr. Hersh to regain any semblance of quality of life, even if he were able to find employment in a diminished capacity.

PRAYER FOR RELIEF

13. WHEREFORE, Mr. Hersh respectfully requests this court grant his request for undue hardship discharge of his student loan debt pursuant to section 523(a)(8) of title 11 of the United States Code (the "Bankruptcy Code"),

Respectfully submitted,



Signature of Plaintiff

Dated 7-28-15